

REMARKS

Reconsideration of the present application is requested on the basis of the following particulars.

1. In the drawings

The drawings are amended to overcome the informalities identified in the Office action, namely the drawings now have descriptive labels as shown on the REPLACEMENT SHEET. In view of the amended drawings, acceptance of the drawings is respectfully requested.

2. In the specification

The specification is amended in the AMENDMENT TO THE SPECIFICATION to include proper section headings and to remove reference to the pending claims. Entry of the amendment to the specification is respectfully requested.

3. In the claims

Claims 16, 17 and 18 are amended in the AMENDMENT TO THE CLAIMS to clarify that “one and the same” biometric feature is used for a plurality of data sets generated by different algorithms. The amendments were not made to avoid prior art, as it is believed that the original claims are fully patentable over the cited prior art. Rather, in reviewing the claim language it was perceived that some of the language could be improved to more clearly define the inventive subject matter.

Entry of the amendment to the claims is respectfully requested.

4. Rejection of claims 17-22, 24 and 31 under 35 U.S.C. § 112, first paragraph

The rejection of the claims 17-22, 24 and 31 under 35 U.S.C. § 112, first paragraph is respectfully traversed on the basis that the actual types of algorithms

used for generating data of a biometric feature are not pertinent to the invention described by the pending application. It is assumed by the pending application that one of ordinary skill in the art would readily recognize that different algorithms exist for generating different sets of reference data generated from biometric data of one and the same biometric feature.

The use of the algorithms in the context of the pending claims is akin to a claim that would recite an off-road vehicle having a particular type of suspension and one that requires front and rear tires of different treads. The actual type of tread is not essential to the claim. What is essential to the invention, however, is that the tire treads of the front tires differ from the treads of the rear tires. One of ordinary skill in the art would easily be able to understand this feature from the claim and make the off-road vehicle accordingly with the tires having different treads.

From a casual reading of the pending claims, it is clear that these claims are not directed to actual algorithms for generating reference data from biometric data. Instead, the invention of the pending application, at least in part, concerns providing a data carrier that is able to cooperate with any system that may involve different algorithms for evaluating biometric data of a biometric feature. Since many types of processing algorithms may be used and are known to one skilled in the art, the working of the individual algorithms is not essential to the claims. As such, they are neither recited in the claims nor described in the specification.

Applicants dispute the assumption in the Office action that one of ordinary skill in the art would be subjected to undue experimentation or delays in making the devices and methods of the pending application since the specification does not specifically describe algorithms for use. If specific algorithms were prescribed by the pending application and recited in the corresponding claims, then this would be in contradiction to one of the general objectives of the pending application which is to provide data carriers that can cooperate with a variety of systems. Hence, due to the versatility of the devices and methods according to the pending application, one of

ordinary skill would have a variety of algorithms at his disposal, and there would be no “undue experimentation or delays” in making the devices and methods according to the pending application.

In light of these observations, withdrawal of this rejection of claims 17-22, 24 and 31 is respectfully requested.

5. Rejection of claims 16-18, 21-31 and 33 under 35 U.S.C. § 102(b) as being anticipated by U.S. patent 4,993,068 (Piosenka)

This rejection is respectfully traversed on the basis that the Piosenka patent fails to disclose or suggest each limitation required by independent claims 16, 17, 18 and 23 of the pending application. Specifically, the Piosenka patent does not disclose, either explicitly or implicitly, generating different sets of reference data from biometric data of one and the same biometric feature using different algorithms.

Turning specifically to the teachings of the Piosenka patent, it is clear from Fig. 1 that a variety of biometric features (11-15) of a person (2) are detected. From Fig. 1, it is evident that different data are obtained as a result of the measurement of different biometric features. There is no suggestion in this drawing figure which would tend to hint that different sets of reference data are generated from biometric data of “one and the same” biometric feature.

Fig. 3a of the Piosenka patent, which was relied upon in the Office action, discloses that biometric data is collected and encrypted using public key techniques. Such public key techniques of encryption, however, do not constitute generating different sets of reference data. Instead, the Piosenka patent describes encrypting obtained biometric data which in turn merely results in an encrypted data set (col. 10, line 60 through col. 11, line 9). It follows that if the encrypted data were accessed with a key, it would produce the very same biometric data that was provided before encryption. The teaching of encrypting biometric data is therefore not the same as

same as generating different reference sets of data based on the biometric data from one and the same biometric feature.

In observing Fig. 3b, indeed, it is readily apparent that the Piosenka patent merely compares collected biometric data with stored biometric data (col. 11, lines 24-35). The collected biometric data is only referred to as being "digitized." From this description, there is no hint as to generating reference data from stored biometric data and using different algorithms to convert collected biometric data to make comparative data, as required in the pending claims.

In view of these observations, the Piosenka patent clearly does not disclose or teach each limitation required by the pending claims. Withdrawal of this rejection is respectfully requested.

6. Rejection of claims 19, 20 and 32 under 35 U.S.C. § 103(a) as being unpatentable over U.S. patent 4,993,068 (Piosenka) and in view of U.S. patent 5,987,155 (Dunn)

This rejection is respectfully traversed in view of the aforementioned shortcomings of the teachings of the Piosenka patent. The Dunn patent fails to make up for such shortcomings of the Piosenka patent. As a result, claims 19 and 20, which depend from claim 18, and claim 32, which depends from claim 16, are patentable in view of its dependency from one of independent claims 18 and 16, and their individually recited features.

7. Conclusion

In view of the foregoing remarks, it is respectfully submitted that the application is in condition for allowance. Accordingly, it is kindly requested that the pending claims be allowed and the application be passed to issue.

If any issues remain that may be resolved by a telephone or facsimile communication with the applicant attorney, the examiner is invited to contact the undersigned at the numbers shown below.

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Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Justin J. Cassell', written in a cursive style.

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